

*Senate Budget and Fiscal Review—Mark Leno, Chair*

## **SUBCOMMITTEE NO. 5**

## **Agenda**

**Senator Loni Hancock, Chair**  
**Senator Joel Anderson**  
**Senator Lois Wolk**



**Thursday, April 19, 2012**  
**9:30 a.m. or Upon Adjournment of Session**  
**Room 113**

**Consultants: Joe Stephenshaw**  
**Brady Van Engelen**

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## **CALIFORNIA DEPARTMENT OF JUSTICE (0820)**

**Departmental Overview.** The constitutional office of the Attorney General, as chief law officer of the state, has the responsibility to see that the laws of California are uniformly and adequately enforced. This responsibility is fulfilled through the diverse programs of the Department of Justice (DOJ).

The DOJ is responsible for providing skillful and efficient legal services on behalf of the people of California. The Attorney General represents the people in all matters before the Appellate and Supreme Courts of California and the United States; serves as legal counsel to state officers, boards, commissioners and departments; represents the people in actions to protect the environment and to enforce consumer, antitrust, and civil laws; and assist district attorneys in the administration of justice. The DOJ also provides oversight, enforcement, education and regulation of California's firearms/dangerous weapons laws; provides evaluation and analysis of physical evidence; regulates legal gambling activities in California; supports the telecommunications and data processing needs of the California criminal justice community; and pursues projects designed to protect the people of California from fraudulent, unfair, and illegal activities.

**Budget Overview.** The Governor's 2012-13 Budget proposes \$723.38 million (\$201.2 million General Fund) and 4,653.3 personnel years.

### **Expenditures**

<b>Program</b>	<b>2010-11</b>	<b>2012-12</b>	<b>2012-13</b>
Directorate and Administration	\$81.94	\$88.38	\$91.32
Legal Services	\$315.05	\$367.20	\$375.59
Law Enforcement	\$215.36	\$209.45	\$187.75
California Justice Information Services	\$136.12	\$155.14	\$158.03
<b>Totals</b>	<b>\$666.54</b>	<b>\$671.80</b>	<b>\$723.38</b>
<b>Personnel Years</b>	<b>4654.5</b>	<b>4789.2</b>	<b>4653.3</b>

<b>Issue 1 – Division of Law Enforcement</b>
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**Governor's Budget Request.** The 2012-13 budget includes a request to re-authorize \$11.8 in funding (\$4.9 million General Fund and \$6.9 million in Legal Services Revolving Fund) to continue public safety programs within the Department of Justice's Division of Law Enforcement (DLE).

**Background.** The 2011 Budget Act identified the elimination of all General Fund contributions for the DOJ's Division of Law Enforcement (DLE) as part of the solution for closing the 2011-12 budget gap. This reduction amounted to a \$36.8 million reduction in General Fund contributions in 2011-12 and \$71.5 million in 2012-13. General Fund resources for forensic laboratory program, the Armed Persons Program, and investigation teams to assist the Department's legal services division remained intact. The Governor's 2012-13 Budget proposal includes a partial restoration of DLE funding that would be contingent on the passage of a tax proposal via ballot initiative. If the initiative fails to pass it would trigger the collapse of the partial restoration of the Division of Law Enforcement.

When a crime occurs, local law enforcement is able to investigate the immediate circumstances of the crime and make an arrest. However, if the crime is part of an organized criminal enterprise, the local agency may have incapacitated the street level operative, but not the central functions of the larger organization. While some large cities might have the capacity to develop more sophisticated surveillance capabilities, they cannot avoid their own jurisdictional limitations. As a result, by their nature, local law enforcement agencies' resources and personnel are primarily focused on patrolling the streets of their jurisdictions. The Attorney General's office is situated to exercise statewide jurisdiction and has established relationships with local and federal authorities that ensure a streamlined enforcement approach.

This budget proposal requests the reauthorization of 51 positions within the Division of Law Enforcement. The \$4.9 million dollars in General Funds would provide the Division of Law Enforcement with 17 positions in the Special Operations Unit and six positions in the Office of the Director. The Special Operations Unit provides statewide enforcement for combating intrastate drug trafficking and violent criminal activity. Personnel within the Special Operations Unit often conduct undercover operations to gather evidence leading to the arrest and prosecution of individuals conducting criminal activity. The additional General Fund contribution would provide three sworn agents and three administrative support staff to be housed within the Office of the Director. The \$6.9 million dollar Legal Services Revolving Fund contribution would provide the Division of Law Enforcement with 22 positions in the Special Investigations Team Program and six positions in the Foreign Prosecution and Law Enforcement Unit. The Special Investigations Team is responsible for conducting complex investigations involving the allegations of civil rights violations, public corruption, underground economy, environmental contamination, federal and state habeas litigation involving capital and non-capital cases, homicides, officer involved shootings, consumer fraud, money laundering, conflict of interest, bribery, tax evasion, race discrimination, death in custody

evaluations, misappropriation of public funds, suspected criminal activity involving public officials and mortgage fraud. The positions within the Office of the Director provide the managerial support for the Division's enforcement and administrative functions.

**LAO Recommendation:** Approve as budgeted. Shift the existing \$2 million General Fund appropriation for the Special Investigations Team to the Legal Services Revolving Fund.

**Staff Recommendation:** Approve LAO's recommendation.

<b>Issue 2 – Armed Prohibited Persons System Workload</b>
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**Governor's Budget Request.** The Governor's 2012-13 Budget requests the authorization of \$1.6 million dollars in Dealers Record of Sale Account spending authority be granted to the Department of Justice's Bureau of Firearms to address enforcement activities associated with the Armed Prohibited Persons System (APPS). The spending authority would begin in 2012-13 and would provide the Department with eight personnel that would serve on a three-year limited term basis.

**Background.** Existing law authorizes the Department of Justice (DOJ) to require a firearms dealer to charge each firearm purchaser a fee, as specified, to fund various specified costs in connection with, among other things, a background check of the purchaser, and to fund the costs associated with the DOJ's firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms.

Chapter 743, Statutes of 2011 (SB 819) authorized the Department of Justice to utilize the Dealers' Record of Sales Account to fund firearms related regulatory and enforcement activities associated with the Armed Persons Prohibited Persons System. The Department of Justice has requested \$1.6 million dollars in 2012-13 in Dealers Record of Sales Account spending authority to support eight additional staff hired on a three year limited term basis.

According to the Department of Justice there are on average, 4,500 newly identified automated Armed Prohibited Persons added to the database on an annual basis. In addition there are approximately 440,000 historical files that need to be manually processed. The Department of Justice currently has the capacity to investigate over 1,700 cases per year leaving a large number of cases backlogged on an annual basis. There are currently seventeen personnel within the Department of Justice assigned to the APPS program that conduct surveillance, seize weapons when necessary, and write reports. The additional limited term positions would be distributed throughout the state and would supplement the current activities of APPS investigators within the Department of Justice.

**Staff Comment:** Fiscal analysis for SB 819 (Leno) authorizing the use of Dealers Record Of Sales Account funds for APPS reflects information from the Department Of Justice indicating a need for 5 special agents for \$945K and a one-time request of \$500K for task forces, resulting in estimated costs of \$1.5M in 2012-13, and \$945K annually thereafter. However this request reflects an increase in both personnel and continued funding.

**Hearing Questions:** The Subcommittee may want to hear from the Department of Justice on the following issues:

1. *Please explain the discrepancy between the original fiscal analysis of SB 819 (Leno) and the request submitted?*

**Staff Recommendation:** Approve as Budgeted.

### Issue 3 – Hawkins Data Center

**Governor's Budget Request:** The Governor's 2012-13 Budget requests \$486,000 of one time Dealer Record of Sales (DROS) authority in Fiscal Year 2012-13 and one time authority of \$18,000 in Fiscal Year 2013-14 to support the software development and enhancements required to meet the mandates set forth in Chapter 745, Statutes of 2011 (AB 809).

**Background.** Existing law regulates the transfer of firearms for retaining specified information regarding firearm transfers by the Department of Justice. Existing law establishes different requirements regarding reportable information for handguns and firearms that are not handguns (rifles and shotguns, etc.). Under existing law, the Department of Justice requires firearms dealers to keep a register or record of electronic or telephonic transfers of information pertaining to firearms transactions. Existing law exempts from these requirements certain transactions involving long guns.

Existing law prohibits peace officers, Department of Justice employees, and the Attorney General from retaining or compiling certain information relating to transactions regarding long guns, as specified. Chapter 745, Statutes of 2011 (AB 809) provides that those provisions are repealed on January 1, 2014, and thereafter would require those peace officers to retain and compile information relating to long guns, as specified.

Long gun purchaser information is currently used to build a background check, referred to as the Basic Firearms Eligibility Check. To meet this legislative mandate, the long gun transaction would be expanded to include gun details to build and process the Automated Firearms System (AFS) stolen gun check to ascertain if that long gun is stolen, much like the handgun stolen gun check.

The Department of Justice anticipates that the retention of long gun data will increase volume of retained Dealer Record of Sales transactions by approximately 250,000 transactions per year. In order to meet the additional requirements the Department of Justice utilize external services for software development purposes that would cost \$395,000 dollars and for enhancements to the Department's California Handgun Registration Information System (CHRIS) that would cost approximately \$65,000 dollars. The remaining funds would be utilized for internal consultation and project oversight.

**Staff Comment:** Staff does not have any concerns with this request.

**Staff Recommendation:** Approve as Budgeted.

<b>Issue 4 – Legal Services Allocations and Small Client Pot</b>
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**Governor's Budget Request.** The Governor's 2012-13 Budget redirects \$1.86 million dollars in General Fund to the small client pot beginning in 2012-13 to address the departments legal service's needs. Additionally, the Governor's 2012-13 Budget includes a request to augment the Department of Justice's budget by \$600,000 dollars by utilizing funds within the Indian Gaming Special Distribution Fund. The \$2.5 million dollar augmentation would be utilized to fund legal services provided for the Governor's office.

**Background.** The 2011 Budget Act reflected the conversion of Department of Justice non-billable clients to billable status. The twelve largest clients (those with over 1,000 hours in 2009-10) with separate General Fund items of appropriation totaling \$50.6 million, and by providing \$1.5 million General Fund in a "small client" pot within the Department of Justice's budget to address the remaining clients. The Department of Justice has proposed several changes to the structure that was originally agreed to in the 2011 Budget Act. The Department of Justice has requested to merge funds into a separate schedule within the main item: separate items of appropriation have been eliminated and the funds merged into each client's main item with a new budget bill program schedule referred to as "Department of Justice Legal Services." Funds are transferred from the state entities budget to the Department of Justice's Legal Services Revolving Fund after the Department of Justice performs legal services for each respective client.

**LAO Recommendation:** Approve the Governor's proposal to augment the Department Of Justices' (DOJ) budget by \$600,000 from the Indian Gaming Special Distribution Fund and delaying by one year the proposed \$1.9 million increase in DOJ's General Fund appropriation for legal services.

**Staff Recommendation:** Approve Governor's proposal to augment DOJ's budget by \$600,000 from the Indian Gaming Special Distribution Fund and delay \$1.9 million dollar General Fund appropriation to Department of Justice for Legal Services.

#### Issue 5 – National Mortgage Settlement Agreement

**Background:** On February 9, 2012 the federal government and 49 states reached a settlement with a number of national banks with respect to certain practices implemented by these banks regarding mortgage servicing and home foreclosures, the agreement was signed off by a federal judge on April 6<sup>th</sup>. The settlement provides for relief for borrowers in the form of modifications, mortgage loan servicing reforms, increased compliance monitoring and enforcement. In joining the national servicing settlement agreement the state was able to reach an agreement that could amount to \$18 billion dollars in support for homeowners in the state. According to the Department of Justice the settlement will be structured as follows:

- \$12 billion will be dedicated to reduce the principal balance on loans by offering either affordable modifications or short sales to approximately 250,000 California homeowners.
- \$430 million payment in penalties, costs, and fees.
- \$849 million to help refinance the loans of approximately 28,000 California homeowners with interest rates above 5.25 percent who are current on their mortgage payments but underwater on their loans.
- \$279 million will be dedicated to provide payments to approximately 140,000 homeowners foreclosed upon during the worst period of servicing misconduct.
- \$1.1 billion will be distributed to California communities to repair blight and devastation left by waves of foreclosures in hard-hit areas.
- \$3.5 billion to forgive unpaid debts to banks for about 32,100 homeowners who have lost their homes to foreclosure.

In addition to the amount agreed to in the settlement there will also be reforms to the mortgage servicing industry:

- Information in foreclosure affidavits must be personally reviewed and based on competent evidence.
- Holders of loans and their legal standing to foreclose must be documented and disclosed to borrowers.
- Borrowers must be sent a pre-foreclosure notice that will include a summary of loss mitigation options offered, an account summary, description of facts

supporting lender's right to foreclose, and a notice that the borrower may request a copy of the loan note and the identity of the investor holding the loan.

- Borrowers must be thoroughly evaluated for all available loss mitigation options before foreclosure referral, and banks must act on loss mitigation applications before referring loans to foreclosure; i.e. "dual tracking" will be restricted.
- Denials of loss mitigation relief must be automatically reviewed, with a right to appeal for borrowers.
- Banks must implement procedures to ensure accuracy of accounts and default fees, including regular audits, detailed monthly billing statements and enhanced billing dispute rights for borrowers.
- Banks are required to adopt procedures to oversee foreclosure firms, trustees and other agents.
- Banks will have specific loss mitigation obligations, including customer outreach and communications, time lines to respond to loss mitigation applications, and e-portals for borrowers to keep informed of loan modification status.
- Banks are required to designate an employee as a continuing single point of contact to assist borrowers seeking loss mitigation assistance.
- Military personnel who are covered by the SCRA will have enhanced protections.
- Banks must maintain adequate trained staff to handle the demand for loss mitigation relief.
- Application and qualification information for proprietary loan modifications must be publicly available.

**Staff Comment:** This is an informational item. The Subcommittee may want to hear from the Department of Justice on the following issues:

1. *The settlement included approximately \$410 million dollars in discretionary funds, has the Attorney General's office identified where those funds will be utilized?*
2. *Could you please elaborate on the implementation process of the reforms that were agreed to in the settlement agreement?*



## **Issue 1: Judicial Branch – Trial Court Funding (0250)**

**Background.** Chapter 850, Statutes of 1997, enacted the Lockyer-Isenberg Trial Court Funding Act of 1997 to provide a stable and consistent funding source for the trial courts. Beginning in 1997-98, consolidation of the costs of operation of the trial courts was implemented at the state level, with the exception of facility, revenue collection, and local judicial benefit costs. This implementation capped the counties' general purpose revenue contributions to trial court costs at a revised 1994-95 level. The county contributions become part of the Trial Court Trust Fund, which supports all trial court operations. Fine and penalty revenue collected by each county is retained or distributed in accordance with statute.

Chapter 1082, Statutes of 2002, enacted the Trial Court Facilities Act of 2002, which provided a process for the responsibility for court facilities to be transferred from the counties to the state by July 1, 2007. This Chapter also established several new revenue sources, which went into effect on January 1, 2003. These revenues are deposited into the State Court Facilities Construction Fund (SCFCF) for the purpose of funding the construction and maintenance of court facilities throughout the state. As facilities transfer to the state, counties will also contribute revenues for operation and maintenance of court facilities based upon historical expenditures.

In enacting these changes, the Legislature sought to create a trial court system that was more uniform in terms of standards, procedures, and performance. The Legislature also wanted to maintain a more efficient trial court system through the implementation of cost management and control systems.

The Judicial Council is the policymaking body of the California courts, the largest court system in the nation. Under the leadership of the Chief Justice and in accordance with the California Constitution, the council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice. The Administrative Office of the Courts (AOC) implements the council's policies.

Currently, the state maintains 58 trial court systems, each having jurisdiction over a single county. These courts have trial jurisdiction over all criminal cases (including felonies, misdemeanors, and traffic matters). They also have jurisdiction over all civil cases (including family law, probate, juvenile, and general civil matters). In 2009–10, more than ten million cases were filed in trial courts throughout the state.

## Major Trial Court Realignment Legislation

Legislation	Description
<b>Lockyer–Isenberg Trial Court Funding Act of 1997.</b> Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle)	Transferred financial responsibility for trial courts (above a fixed county share) from the counties to the state.
<b>Trial Court Employment Protection and Governance Act.</b> Chapter 1010, Statutes of 2000 (SB 2140, Burton)	Classified most individuals working in the trial courts as court employees.
<b>Trial Court Facilities Act of 2002.</b> Chapter 1082, Statutes of 2002 (SB 1732, Escutia)	Initiated the transfer of ownership and responsibility of trial court facilities from the counties to the state.

**Governor's Proposal.** The Governor budget contains the following proposals relative to trial court funding:

- 1) \$50 million for the Trial Court Trust Fund from civil court fee increases. These funds would be available to offset the ongoing impact of reductions in funding for trial court operations contained in previous budget acts.
- 2) Provisional Language that would grant the Judicial Council the authority to allocate the continuing budget reductions across the branch and to redirect funding from other court fund sources, as the Judicial Council deems appropriate.
- 3) A trigger reduction of \$125 million if the Governor's tax proposal is not approved in November. While the Branch would determine how to implement this reduction, it is the equivalent of court closures equal to three days per month.

The following shows total trial court funding as proposed in the Governor's Budget.

(dollars in millions)

2010-11	2011-12	2012-13
\$3,218	\$2,667	\$2,819

**Legislative Analyst's Office (LAO).** The LAO has determined that recent reliance on one-time solutions to address judicial branch cuts results in \$302 million still requiring ongoing solutions. According to the LAO, implementing ongoing reductions in the budget year, as proposed by the Governor, may be difficult because the branch has fewer one-time options available to help address the reduction, largely because of the significant amount of special fund balances used this year. To the extent that the Legislature approves the continuation of the ongoing reduction, the LAO offers a series of recommendations and options below. Specifically, The LAO recommend the Legislature (1) reject the Governor's proposed budget bill language to authorize the Judicial Council to allocate the reductions, (2) approve the Governor's proposed increase in civil fees, (3) adopt specific actions to achieve ongoing savings in the judicial branch, and (4) require that the judicial branch submit a report on potential operational

efficiencies. Below are actions that the LAO recommends the legislature adopt or consider:

- **Implement Electronic Court Reporting.** Under current law, trial courts use certified shorthand reporters to create and transcribe the official record of many court proceedings. As in previous years, the LAO recommends the Legislature direct the trial courts to phase in electronic court reporting, estimating that the state could save about \$13 million in 2012–13 and in excess of \$100 million on an annual basis upon full implementation.
- **Ensure Courts Charge for Court Reporting Services in Civil Cases.** The parties in a civil case are currently required to pay for reporting services only for proceedings lasting more than an hour. However, information provided by AOC indicates a roughly \$50 million difference between court reporting costs for civil cases and the amount of fee revenue collected to offset these costs. This shortfall likely includes costs related to proceedings of less than one hour, fee waivers courts are authorized to provide to indigent litigants, and some failure to collect these fees in certain courts. The LAO recommends the Legislature amend existing state law to require trial courts to charge court reporting fees to offset costs related to court reporting services, including proceedings lasting less than an hour (though still allowing fee waivers for indigent litigants). The LAO believes this new source of revenue along with more efficient collection of the fee by trial courts would generate ongoing savings of \$23 million in 2012–13.
- **Reduce Trial Court Funding Based on Workload Analysis.** In 2005, AOC and the National Center for State Courts completed an in–depth study on the level of funding a given trial court would need based on a specified workload, as measured by the number of cases filed. This study is commonly referred to as the "resource allocation study." Based on data compiled through 2010–11, 10 of the 58 trial courts in the state received more funding—totaling roughly \$40 million—than predicted by the workload study. Based on these findings, the LAO recommends that the Legislature direct the Judicial Council to more closely align the level of funding for the above courts to their actual workload need. If implemented over a four–year period, the LAO projects this recommendation would achieve General Fund savings of \$25 million in the first year of implementation and \$40 million upon full implementation.
- **Transfer Remaining California Case Management System (CCMS) Funds to Trial Courts.** The judicial branch has worked since 2002 to develop a statewide court case management technology project called CCMS. This system was designed to standardize court filings, increase electronic access to court records, reduce the amount of work associated with paper–driven filings, and allow electronic interaction with criminal justice entities. In March 2012, the Judicial Council voted to terminate the product before deploying it to individual courts. Based on AOC estimated costs, the decision to terminate CCMS will reduce spending on this project by \$46 million in 2012–13. In addition, the Judicial Council will receive a one–time \$16 million cash payment from the CCMS product vendor as compensation for numerous product quality issues which resulted in a ten–month project delay. The LAO recommends that the Legislature

direct AOC to transfer all of these funds (totaling \$62 million in 2012–13) directly to trial court operations to offset the unallocated reduction.

- ***Implement a Furlough for Court Employees for One Year.*** The Legislature could mandate a statewide furlough for court employees for one year. This would be in addition to the furlough days already implemented in many courts. 47 of the 58 trial courts have implemented furlough days at some point in the last few years, with the number of actual furlough days varying across courts. The LAO projects that a one-day-per-month furlough could generate roughly \$65 million in savings in the budget year.
- ***Delay Or Cancel Certain Court Construction Projects.*** As discussed previously, two judicial branch special funds—SCFCF and ICNA—receive roughly \$450 million in criminal fine and civil filing fee revenues annually for court facility construction projects. A portion of these funds are also used for maintenance of court facilities. Most ICNA construction projects are currently in either the site acquisition or design phase, whereas most SCFCF projects are already under construction. The LAO proposes that the Legislature could delay all projects not currently under construction (mainly ICNA projects) for one year and transfer a couple hundred million dollars of the \$320 million in annual revenues received by ICNA to offset reductions to the trial courts. Alternatively, the LAO suggests the Legislature could consider canceling certain courthouse construction projects and achieve significant savings on an ongoing basis saving roughly \$100 million annually.
- ***Require Individual Courts to Make Additional Reductions.*** The LAO proposes that the Legislature could require that the individual trial courts be required to absorb additional reductions. However, they note that actions taken in prior years have frequently resulted in a backlog of cases, delays in processing court paperwork, and longer wait times for those seeking court services. In addition, the LAO notes that many trial courts also drew upon their local reserves to help offset recent budget cuts and avoid taking certain operational actions. At the end of 2010–11, trial courts possessed combined reserves of \$562 million, but only around half was unrestricted and available for use by the trial courts to address their budget reductions. The actual level of reserve balances, particularly unrestricted funds, currently varies across trial courts. Some courts possess enough funds in their reserves to cover a large share of their annual expenditures and would probably be able to draw on these reserves—rather than make additional operational changes—to absorb additional budget reductions. Other courts lack a significant amount of unrestricted funds and might have difficulty absorbing further budgetary reductions.
- ***Require Judicial Branch to Submit Report on Potential Operational Efficiencies.*** The LAO notes that court operations and procedures are governed by numerous state laws which are usually enacted as formal rules of court established by the Judicial Council. These rules of court are designed to ensure standard practices across all courts. For example, the rules regulate the format of case filings, identify acceptable ways to document court proceedings, and provide guidelines for proceedings for all case types. The Judicial Council, in consultation with trial court administrators and other judicial stakeholders, is best

positioned to evaluate current practices to identify those processes that may be outdated, inefficient, and require statutory change. The courts have expressed that they believe opportunities exist to generate savings through changes in current law, rules of court, and operations. The judicial branch reports having already begun to identify such opportunities. Thus, the LAO recommends that the Legislature require the judicial branch to submit a report on potential operational efficiencies as well as their estimated savings, including those requiring statutory amendments, at budget hearings for legislative consideration and potential action.

### Staff Comments:

**Recent reductions in trial court funding have been partially offset.** Although trial courts have experienced reductions in General Fund support in the past several years, these reductions have been largely offset by fund shifts and additional revenue from court-related fee increases. As a result, although cumulative reductions currently stand at \$605.8 million, the total level of funding for trial courts has remained relatively flat in recent years. For instance, in 2010-11, trial courts actually received an increase in funding as compared to 2009-10 and the actual funding reduction allocated to trial courts for 2011-12 was \$138.3 million.

Following is a summary of reductions and offsets to trial court funding since 2008-09.

(dollars in millions)				
<b>Trial Court Reductions</b>	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>
Unallocated Reduction	\$92.2	\$268.6	\$55	\$320
One-time Reduction		(100)	(30)	
<b>Total</b>	<b>\$92.2</b>	<b>\$268.6</b>	<b>\$55</b>	<b>\$320</b>
<b>Offsets</b>	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>
Use of Local Reserves	\$92.2	\$71	\$25	\$0
Transfer From other Funds		130	130	233.0
Fee Increases		46.7	113.2	107.1
Use of Fund Reserve		3	36	69.4
<b>Total</b>	<b>\$92.2</b>	<b>\$250.7</b>	<b>\$304.2</b>	<b>\$409.5</b>

Although funding reductions have been largely offset in the past, many of the sources used for these offsets have been exhausted. Additionally, although some funding for

employee benefit cost increases has been provided, trial courts have not received an inflation or cost-of-living adjustment since 2008-09 (\$70.1 million Consumer Price Index adjustment), which increases the pressure on trial courts to provide a sustained level of service.

**Previous reductions continue to impact trial court services.** Under Government Code (GC) section 68106, courts must provide written notice to the public and to the Judicial Council at least 60 days before instituting any plan to reduce costs by designating limited services days. The council, in turn, must post all such notices on its internet site within 15 days of receipt. Since GC Section 68106 became operative on October 19, 2010, the Judicial Council has received notices from 25 courts.

In addition to the notices described above, efforts to reduce trial court expenditures have led to staffing reductions, including.

- San Joaquin Superior Court, which recently laid off 42 employees.
- San Francisco Superior Court, which recently laid off 75 employees.
- Los Angeles Superior Court, which previously laid off 329 employees and recently announced 350 additional layoffs.

**Many one-time offsets have been exhausted.** As mentioned previously, reductions in funding for trial courts have largely been offset by fund shifts or transfers, use of local funding reserves, fee increases, and court closures. Other than fee increases, many of these offsets have been one-time in nature and may no longer be feasible options to mitigate the impact of previous reductions in trial court funding.

**Court construction funding has contributed to recent solutions.** The Judicial Branch has two primary court construction funds, the SCFCF, which receives approximately \$130 million from fees and penalty assessments to support trial court construction projects, and the Immediate and Critical Needs Account (ICNA), which receives approximately \$321 million from various civil and criminal fines and fees to support 41 trial court construction projects that were deemed to be immediate and critical by the Judicial Council. In the current year, the following actions were taken related to these two funds:

- Transferred \$310.3 million from the ICNA to the GF.
- Loaned \$350 million from the SCFCF to the GF, to be repaid with interest.
- Loaned \$90 million from the ICNA to the GF, to be repaid with interest.
- Provided authority to the AOC to allow for redirection of \$130 million from the SCFCF and ICNA to offset the reduction to trial court funding.

The AOC submitted a revised court construction funding plan to the Judicial Council this past December that results in minimal project delays and the cancelation of only two, one-courtroom projects (Alpine and Sierra). The Legislature should receive a proposal this spring that reflects an updated funding plan.

Due to delays related to the acquisition of properties, the construction program has been able to proceed with minimal impact to projects. However, in 2012–13 and beyond, the redirections and loans may cause delays to the project schedules

**Judicial Branch proposed solutions for trial court funding.** The AOC has proposed that the following solution be considered as a package of components that can provide ongoing funding stability for trial courts.

- **Establish a New Baseline Budget That Reflects an Appropriate Level of Ongoing Funding Based on Cumulative Reductions.** Trial courts will absorb approximately \$350 million as operationalized reductions while recognizing that courts may be unable to provide full access to justice. This is an attempt to more accurately reflect the budget after the successive years of one-time borrowing solutions.
- **General Fund Restoration.** Part of the ongoing solution would include a restoration of \$150 million. This restoration is proposed to be made over the next three fiscal years: \$100 million in 2012-13, another \$25 million in 2013-14, and a further \$25 million in 2014-15.
- **Additional and/or Increases in Various Civil Fees.** As done in past years, the judicial branch will work with the other branches of government and judicial branch stakeholders, including the State Bar, to develop a range of user-fees. As mentioned above, the proposed budget includes \$50 million in new fee revenue for the trial court trust fund.
- **Transfer and Redirections from other Court Funds.** Part of the solution would include a redirection from other funds, after consultation and negotiation with branch stakeholders. The court's goal is to achieve a consensus on redirections of \$50 million.
- **Improved Efficiencies in Court Operations and Changes in Unnecessary Statutory and Reporting Requirements.** The Judicial Branch would identify areas in which courts can become more efficient without threatening the administration of justice and make changes in those areas.
- **Trial Court Fund Balances.** Part of the solution would include the trial courts using \$100 million of the fund balances in 2012-13, \$75 million in 2013-14, and \$50 million in 2014-15.

**Previous trial court closure.** The 2009–10 budget authorized the Judicial Council to provide that the courts be closed for the transaction of judicial business for one day per month. On July 29, 2009, the Judicial Council designated the third Wednesday of the month from September 2009 through June 2010 as a uniform statewide court closure day. The council directed that on that day, all superior courts, Courts of Appeal, and the Supreme Court would be closed.

The impact of court closures varied considerably from court to court. A few courts reported that there was no discernible impact or only a minimal impact. But most courts reported that there was a noticeable impact on court operations and court users from closure of the courts. Workload did not go away simply because the court was closed

one day a month. Just as on existing court holidays, that workload shifted to other days. The Legislature may consider asking the AOC to provide greater detail on the impacts of the previous one-day closure and expected impacts of closing trial courts for three days per month.

**Recommendation.** Hold open to allow the AOC additional time to develop a trial court funding plan for 2012-13 that provides clarity on offsets to previous reductions.

## **Issue 2: California Court Case Management System – Discussion Item**

**Background.** Following enactment of the Trial Court Funding Act of 1997, the Judicial Council became responsible for allocating funding to support the various case management systems used by the superior courts. Case management systems are the mechanism by which court staff calendar, update, and track all cases.

In 2003 the AOC selected BearingPoint Incorporated (BearingPoint) as the vendor responsible for developing a case management system for criminal and traffic case types, referred to as the criminal system. The criminal system was based on an earlier version that was in use at the Superior Court of Orange County (Orange) and a separate version in use at the Superior Court of Ventura County (Ventura). The vendor began development of the criminal system in 2003. In July 2006 the Superior Court of Fresno County (Fresno) deployed the criminal system. Although the AOC planned to deploy the system to other superior courts, Fresno was the only court to ultimately implement it. BearingPoint supported the system until December 2006, when the AOC transitioned the contract to Deloitte Consulting. In October 2009 the AOC took over support of the criminal system.

In 2003 the AOC contracted with Deloitte for the design of a system for civil, small claims, and probate cases, referred to as the *civil system*, which was completed in November 2005. In July 2007 the mental health case type was added to the civil system. Los Angeles, Orange, Sacramento, San Diego, San Joaquin, and Ventura county superior courts implemented various components of the civil system.

In June 2007 the AOC began overseeing the development of a single, statewide case management system for all case types, referred to as the California Court Case Management System (CCMS). CCMS combines the capabilities already developed in the criminal and civil systems (interim systems) with new functionality for family law and juvenile case types. The civil system was to serve as the architectural base for CCMS.

The goals for CCMS include improving the access, quality, and timeliness of justice; promoting public safety; and enabling court accountability. CCMS is also designed to include statewide reporting, and court interpreter and court reporter scheduling, and interfaces with other justice partner systems. The CCMS application is designed to manage all case types, including civil, small claims, probate, mental health, criminal, traffic, family law, juvenile dependency, and juvenile delinquency cases. The CCMS



design also includes a public Web site that is intended to allow users to search for case information, pay fines and fees, request traffic school enrollment, request a continuance on a traffic case, access court calendars, and view certain case documents.

According to a February 2011 report by the State Auditor, AOC records showed that in 2015-16, the year in which the AOC estimated at the time of the report that CCMS would be deployed statewide, the full cost of the project was likely to reach nearly \$1.9 billion (not including costs that superior courts would incur to implement CCMS). As of February of this year, over \$500 million had been spent on CCMS. In addition to total cost, other concerns highlighted by the audit include: 1) inadequate planning, 2) failure to adequately structure the development vendor's contract, 3) failure to develop accurate cost estimates, and 4) the AOC's need to gain better support from the superior courts for the project.

At a special session on March 27, 2012, the Judicial Council voted to stop deployment of the CCMS as a statewide solution for the case management needs of the trial courts. Instead, the council directed the council's CCMS Internal Committee, in partnership with the trial courts, to develop timelines and recommendations to the Judicial Council to find other ways to use the CCMS technology and the state's investment in the software system, as well as develop new strategies to assist courts with failing case management systems.

The council also directed the CCMS Internal Committee, in partnership with the trial courts, to develop timelines and recommendations to the Judicial Council for providing technology solutions to improve efficiencies in court operations by maximizing the value of document management systems, e-filing capabilities, and e-delivery services for the benefit of litigants, attorneys, justice branch partners, and the public. Further, the committee was also directed to establish a technology governance structure to best serve the implementation of technology solutions, and develop alternatives for the Superior Court of San Luis Obispo and other trial courts that have failing case management systems and critical case management needs.

The AOC had anticipated a budget of approximately \$55 million for V4 activities in 2012-13. Based on the Judicial Council action, the total cost in FY 2012-13 will be \$8.6 million (as outlined below) which will make \$46.4 million available for other judicial branch priorities.

(dollars in millions)

2012-13 Activities	Cost
Terminate V4	\$2.7
Technology Vision and Roadmap	\$.8
Leverage CCMS Technology	\$3.4
Leverage Doc Management/eFile/eAccess	\$.6
Court Technology Governance Structure	\$.2
Alternatives for San Luis Obispo	\$.7
Courts with Critical CMS Needs	\$.2
<b>Total</b>	<b>\$8.6</b>

The CCMS Internal Committee and the AOC also notified the Judicial Council that the cost reimbursement that was negotiated with Deloitte Consulting, the primary vendor used in the development of CCMS, following delays in the project, would be in the form of a \$16 million payment.

**Staff Comment.** As noted above, the AOC plans on exploring options to best leverage the substantial investment in CCMS that has been made to date. In addition, there are significant costs associated with maintenance of V2 (Fresno) and V3 (Los Angeles, Orange, Sacramento, San Diego, San Joaquin, and Ventura). Specifically cost in 2012-13 for the V2 will be \$4.1 million, and costs for the V3 will be \$11.9 million, both from the Trial Court Trust Fund. The Legislature may want to ask the following questions:

- Can the AOC provide further detail on the process and of options they may be considered to utilize the technology investment made to date?
- How will the costs of V2 and V3 maintenance be reduced?